P 25

G. R. S. IX-5]

Previous references.

Pol 19-14-2

1915. 16

(Police)

File No. 78-15

Serial Nos. 1—7

Later references.

Poli. 69-17(15)

GENERAL AND REVENUE SECRETARIAT.

Marks returned

Q/ 1572/29

Serial Nos. 1—7

Part B for Nov 16

SUBJECT.

Appeal of Hanchappa Pattars Panchalas of Thimsandra against the order of the Dn. re the grant of licence to conduct the procession of Kalika & Kamaleswara—

7) To The Petitioner for 1921 of 25/11/16

Informs that his shd apply to the Dn. in the matter.

3/1/17

W D 88—GPB—50,000—24-7-16

G. R. S. 11] 1915/16 865

GENERAL AND REVENUE SECRETARIAT.

(Police)

NOTES.

File No. 78-15

FILE HEADING.

Appeal of Kuchappa & other Panchalas of Nyamagondlu against the order of the Dt. Magte re the grant of a license to conduct the profession of Kalika & Kamalisvara.

From

Kuchappa & other Panchalas of Nyamagondlu

No. Pol Dated 20.9.15 Received 23.9.15

Diary No. 1865	Enclos. 4	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Appeals against the Dt. Magte's order in the above matter.

NOTES AND ORDERS.

1) Subd. for orders with a draft calling for a report.

RG. 21.10.15.

2) Issue

EG 27/10

1

Sub A 1/

NOTES—First Sheet.

GPB—20,006—8-8-24

1440

(2

G. R. S. 12]

General and Revenue Secretariat. | Pur File No. 78 of 1915

Serial No.	
2	To the D.M. Bangalore dist. No J 1567 30/10/1915 forwards the petition of Shelappa and others for redress wire the connected records.
3	From the Hr. Magte. Bangalore Rl. no. 5353 Dy 23.11.15 Forwards the records; relates that in previous cases manual is being proceeded and that in this case that the decision order of the previous Hr. Magte was enforced; and solicits orders as to whether a declaratory decree of a Civil Court as to a natural right should be enforced by force and if so at whose cost:
	3) The right of the Panchalas to go in procession in the streets of the town has been declared by the Chief Court and it may be enforced in accordance with the principles laid down in G.O. no. 109- D-H-O. Dy 27-2-1893.
	4) Subd. for orders with a ref of orders relating to the conduct of processions.
	5) The Civil Chief Court decision did not relate to the dispute in question, but the nature of the contention, and the general principles laid down therein in regard to the very same parties & the streets now in dispute must-

NOTE—Contn. sheet.

GPB—20,000—30-6-15

(3)

G. R. S. 12]

General and Revenue Secretariat.

Pol File No. 78 of 1915-16

Serial No.

have been considered sufficient by the District Magistrate for enforcing the decision of the Civil Court. The case being ex parte, it does not appear necessary to hear the opposite party in the present case. If this view is approved, draft order will be submitted for approval.

EG
19-1

First Member)

6) I think it is better to hear the Parties. The case may be posted for hearing.

21/1/16

7) For favour of [illegible] date

EG
25/1

8) 29th Feby till the 1st Monday.

8)

First Member)

Pol
1/2/15 Que 31/1

Hen
3/2/16

Pol
31/1

9) Subd. with two drafts.

10) Issue

Hen
4/2

Pol
CW

P.T.O.

NOTE—Contn. sheet.

GPB—70.000—17-12-15

1440

G. R. S. 12]

(4

General and Revenue Secretariat. | Police File No. 78 of 1915-16

Serial No.	
	To
4	Kuchappa of Tyamagondlu Taluk & Nelamangala Hobli Advocate, Bangalore. Ref No. J3109 Ref 8-2-16 Intimate that the case will be heard on 29-2-16
5	To Kote Ramiah of Tyamagondlu No. J3110 Ref 8-2-16 Intimate that the case will be heard on 29-2-16.

11) Subd. May this be subd. to the 1st Member as the case is to be heard a week hence?

BG. 22.2.16. NR

12) This may be sent a day earlier than the date of hearing

ES 23/2

Pol 23/2

13) Subd. This may be now subd. to the 1st Member.

BG. 28.2.16. NR

ES 28/2

1 | 1st Member)

14)

In favour of Petitioner

ES 29/2

1st Member)

15) Intimate this order

ES 4.4.16

NOTE—Contn. sheet.

Pol 23/3

GPE—50,000—17-12-15

G. R. S. 12]

General and Revenue Secretariat. | Police File No. 78 of 1915-16

Serial No.

16) The only ground upon which the license given to the petitioner by the Amildar Magistrate was cancelled by the District Magistrate is that his predecessor's order of 1904 is binding on him and he cannot go back on that order without orders from Government. The order passed in 1904 was apparently an executive order and the petitioner has subsequently filed a suit for a declaration of his right to go in procession with music, through the Vaisya street, and obtained a decision in his favour. It seems obvious that on the authority of this decision, the District Magistrate should have treated the order of 1904 as cancelled and rendered help to the petitioner to enforce his rights, without requiring any further orders of Government in the matter, unless of course he considered that in the particular circumstances and for the time being, it was inadvisable to do so in the interests of the public peace. With these remarks, the records may be returned to him and he may be asked to dispose of the petitioner's application for license.

17) An endorsement may also be given to the petitioner.

26.10.16.

NOTE—Contn. sheet.

GPB —70,000—17-12-15

(1441)

G. R. S. 12]

(6)

General and Revenue Secretariat. | Police File No. 78 of 1915-16

Serial No.

19) Subd. with two drafts.

BH. 3.11.16.

20) Please put up a fair draft as revised.

4/11

21) Fair draft subd.

BH. 4.11.16.

22) For favour of approval

4/11

133 / 4.11.16. Second Member)

23) Is this a judicial matter & the order we passed under Cr. Pro Code liable to be set aside by appeal to the Chief Court?

6.11

24) The order in such cases is passed by the Magistrate under S 45 of the Police Regulation, and is ~~cancelled~~ held to be an executive order. The Chief Court have held in a number of cases that they have no jurisdiction to revise orders passed in such matters by the District Magistrate. (15 Chief Court Reports)

6/11

160 / 6.11.16. Second Member)

25) Is an appeal against

NOTE—Contn. sheet.

GPB—70,000—17-12-15

G. R. S. 12]

General and Revenue Secretariat.

Police File No. 78 of 1915-16

Serial No.

handed us such cases
The draft and can the
attend. The fate of can only
be sent to the Hon'ble Judicial
Y
7.11 Dem 8/11

26) Please put up the file
in which this question has been noted upon
by me & reference to this question in the
Legislative Council by Mr. P. Madhava Rao.
Pol
8/11

27) Police file no 19-16 (Vol 162)
and the Abstract Proc of the Legis Council
containing the discussion of the matter
are noted herewith.
Pol.
8.11.16.
9/11. 28) Attention is respectfully invited to
the note in paragraphs 6 & 11 in Police file
19 of 14 and the assurance openly and
publicly made by the Hon Dewan in the
Legislative Council in regard to S 45 of the Police
Regulation. It is not in appeal that these
petitions are received by Govt. But in this very case,
sometimes orders are passed irregularly
in spite of decisions of the Hight Court in the
State and what Government do in such cases,

NOTE—Contn. sheet.

G

GPS—70 000—17 12-15

f 1440

(8

G. R. S. 12]

General and Revenue Secretariat. | Pol File No. 78 of 1915.

Serial No.

is to give directions and enunciate principles by which his should guide their actions.

EB
9.11.

255
9.11.16.

Secd Member)

29) I do not see. Local Govt may find it necy in any case to give effect to. Where they are like the subject matter by Govt local Govts can use the applicable for peace

There are general orders —

You may simply refer the ref. to the Govt. & ascertain whether Govt proposes to withdraw chief ch. & re-open the case if necy

Y
10.11

Pol 10/11

30) Put up revised draft

EB
10/11

31) ~~Revise draft~~ submitted.

EB
13-11-16.

32) May this draft as now revised issue?

EB
13/11

33)

Second Member) Approved & revised

Y
14.11

issue

34) Issue

EB 14/11.

13
6/12/16 362
13.11.16.

NOTE—Contn. sheet.

GPB—70,000

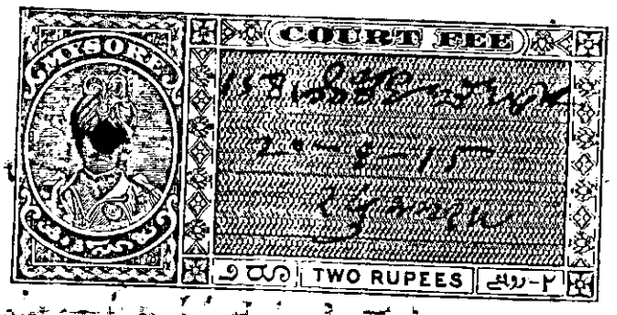
G. R. S. 12]

General and Revenue Secretariat. | Pol Filo No. 78 of 1915.

Serial No.	
6	To The D. M. Bangalore Dt. No. 1920 28th. Nov: 1916 Returns the records and states that the case may be reopened if necessary having regard to the fact that the Ch. Court have passed a declaratory order regarding the Petitioners' rights in the matter.
7	To The Chatha Iyamagondlu No. 1921 28th. Nov: 1916 Informs him that he should apply to the Dt. Magistrate in the matter.

NOTE—Contn. sheet.

GPB—70,000—17-12-15



of H.H. the Maharaja of Mysore

R.A. CASE No. OF 1915 — 1916.

Appellant Plaintiff Kuchappa } *Respondent* ~~*Defendant.*~~ Kote Ramiah

Vs

I, the Appellant above named do by these presents (I.) retain Messrs. L. Sreenivasiengar, V. Venkatachar, B. A., B. L., and D. Krishniengar, B. A., LL. B., Advocates, to appear in and conduct the above case on ~~my~~ behalf to judgement.

2. I further empower them to execute any decree or order that may be passed in ~~my~~ behalf and to receive from Court such sums of money as I may be entitled to get and to grant receipts therefor.

3. I also undertake to confirm and ratify all the legal acts done by the said Advocates in so doing.

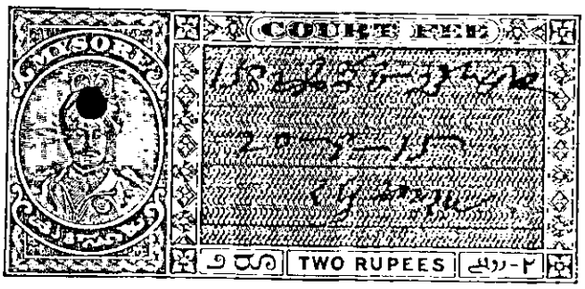
21-5-1916

Accepted

Advocates for appl.

Signed before me and personally known to me.

Advocates.



DIARY No. 865

1915-16
Police
78-15
1

BEFORE THE GOVERNMENT OF H. H. THE MAHARAJA OF MYSORE,

B A N G A L O R E.

Misc: Appeal No. of 1915-1916.

Huchappa, Panchala caste, Dharmakartha of Kalika - Kamateswara Temple, Tymagondlu, on behalf of himself and the other members of the Panchala Community of Tymagondlu, Nelavangala Taluq, Bangalore District. ... Appellant.

--VS--

Kote Ramiah, of Kurubar Caste, on behalf of himself and for the members of Sivachar 18 - Panas. ... Respondent.

The appellant abovenamed begs to prefer this appeal on the following grounds against the order dated 30-7-1915 of the District Magistrate, Bangalore, in license application No.4 of 1915-1916 revoking the license granted by the Amildar of Nelavangala Taluq, for conducting a religious procession along the public streets of Tymagondlu in connection of the Prathishtha (consecration) ceremony of the "Kalika" and "Kamateswara" idols in Tyama-

-gondlu

6. The respondent hereof filed a counter petition before the District Magistrate on 31-8-14 objecting the issue of the license, and on this objection, the District Magistrate passed the order under appeal and thereby revoked his former order and that passed by the Amildar.

7. The only ground on which the order of the District Magistrate under appeal is based is that he is precluded, by reason of a previous order of his predecessor-in-office passed on 21-5-1904, from granting the application of the appellant.

8. The said order of 1904 purports to do no more than stating that in view of the state of feeling then existing in the matter, among the classes of people concerned, ~~which~~ was not advisable to risk a danger to the public peace by granting the license asked for. In other words it was merely a police order intended to safe-guard the primary interests of the public peace and was never intended to create or give effect to any civil rights, in favour of one community or take away the same from another if possessed by them. 9. As obstructions to the exercise of this primary and inherent right of citizens became somewhat frequent and were in some degree countenanced by the authorities on the score of custom and mamool,

9. The appellant hereof with a view to have a final adjudication of his right by a competent civil court filed Original Suit No.76 of 1907-1908 on the file of the First

Munsiff

Munsiff, sued one Chennappa and ~~four~~ others who obstructed marriage procession conducted by the appellant along the Vaisya Street (a public - street) of Tyamagondlu for a declaration of his right to go in procession religious or festive along the said street attended by music and the usual paraphernalia without hindrance or restriction. The appellant obtained a decree after contest and on appeal by the defendant in that case - (No.211 of 1908-1909) the Hon'ble the Chief Court of Mysore dismissed the appeal and confirmed the judgment and decree of the Munsiff.

10. In an elaborate judgment (an authenticated copy of which is herewith filed) their Honours have held in clear and authoritative language that the right claimed by the appellant thereof was a - natural right inherent in every person and unless it was taken away by any Law or custom having the force of Law, mere non-user of it for any length of time - would not be sufficient to extinguish it. They have further held that the right was of such nature that - it did not require any custom to support it.

11. The above proposition was laid down as a - proposition of Law irrespective of the question of - facts whether the appellant and his co-castemen had really been exercising the rights or not.

12. That the appellant and his co-castemen were as a matter of fact in ejoyment of this right, that it

was

was in accordance with the local custom and did not contravene the same in any manner or degree and that the custom alleged by the Shivachars - that the Panchala community were to be confined to particular streets for conducting their processions,-these were decided, after an elaborate - enquiry, by the Senior Assistant Commissioner and First Class Magistrate, Bangalore Sub Division, in his order dated 28-7-1907 (a copy of the same is - herewith filed).

13. Thus the learned District Magistrate in passing the order under appeal has virtually - ignored, if not refused to give effect to, the final adjudication on the rights of the appellant passed by the highest tribunal in the land, though the - application of the applicant and his right to obtain the license were expressly based thereon and the same was brought to the notice of the District Magistrate,

14. The observation made by the learned District Magistrate that he is concluded by the order of his - predecessor-in-office until the same is reversed in - appeal by Government is based on an incorrect view of the Law and ignores the fundamental principles regarding the respective province of Judiciary and Executive.

The District Magistrate's reasoning further ignores the scope of his predecessor's order and the real purpose thereof.

15.

15. The appellant begs to submit that if a decree of a competent Civil Court is not given - effect to by the Executive on the score of "Mamool" in spite of which the decree is passed, such a decree in effect becomes a nullity and is rendered nugatory. No system of Law can contemplate such a state of things which pushed to its logical consequence will put it in the power of the lowest Executive Officer to ignore or refuse to give effect to the most solemn decree of the Highest Civil Tribunal in the State.

16. Nor is the order under appeal passed to meet particular enquiries or exigencies; but it is a deliberate pronouncement and the right of the appellant to the help of the Executive to enjoy the fruit of a decree of a Highest Civil Court obtained after - long and arduous contest.

17. The order of the District Magistrate has also the effect of re-opening settled questions and making it impossible for the litigation to effectually terminate as it enables interested persons to re-agitate in vairous other forms the same questions - though finally settled.

18. Under these circumstances the Course was - clear for the learned District Magistrate to direct the Police to render the utmost possible help and - assistance to the appellant in the free and safe - enjoyment of the right authoritatively declared to be

his

his and to safe-guard the public peace from being violated by the Enemies of peace.

19. The above principle is also recognised in the Mysore Police Regulation V of 1908 Section 41 (2).

20. The appellant therefore prays that in reversal of the order of the District Magistrate dated 30-7-1915, the District Magistrate be directed to issue the license prayed for to the appellant and to ~~ensure~~ insure the effectual exercise of the appellant's right by proper Police help.

This appeal is filed to the Government though there appears to be no express provision regarding appeal in such matter to be found in the Mysore Police Regulation. The appellant submits that in any event the benign and liberal Government of His Highness the Maharaja can in the exercise of its general powers of superintendence over the act of Subordinate Officers, interfere to remedy a palpable injustice and prays that justice may be done.

BANGALORE,
20th Sept: 15.

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V Venkatappa Shetty

File no. 78-15
Sl. no. 2

Memo No. J 1567
Encls 4.

The accompanying petition* registered no. J865 dated the 20th September 1915 from the the Panchalas of Tyamagondlu appealing against the Dt. Magte's order re the grant of a license to conduct the procession of Kalikadevi Rameshwara is forwarded, together with its enclosure to the Dt. Magte. of the Bangalore Dt. for report with the connected records.

By Order
[illegible]
for Secretary to Govt.
Pol. Dept.

*: to be returned with the Report.

Date of issue. 30. 10. 1915.
signed by Mr. G. Sreenivasa Iyengar

BH.
21.10.15

Office of the District Magistrate,

Bangalore District.

No. S 353 / 2 files

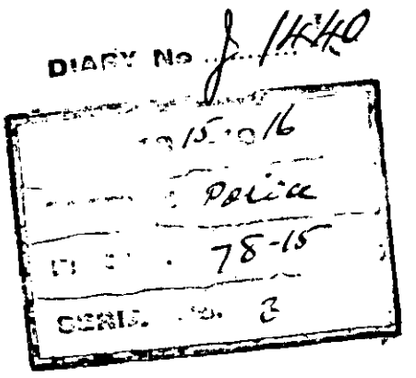
Dated Bangalore, 23rd November '15.

From

K.Chandy, Esq., B.A.,

District Magistrate,

Bangalore District.



To

D.M.Narasinga Rao, Esq., B.A., B.L.,

Secretary to the Government of H.H.

the Maharaja of Mysore, General Department.

Sir,

With reference to Official Memorandum No.J.1567/Police 78-15-3 dated 30th October 1915 regarding the petition for the grant of a license to conduct the procession of Kalika and Kamateswara by the Panchalas of Thyamagondlu, I have the honor to submit herewith the records connected with the license petition and to state that in the matter of processions, mamool is being followed; and in this case as there was an order of a previous District Magistrate which was not set aside, by Government, this was enforced. The question whether a declaratory order of a Civil Court as regards a natural right -- should be enforced by force by the District Magistrate, and if so, at whose cost, does not appear to have been decided yet, and the orders of Government in that matter are requested.

I have the honor to be,

Sir,

Your most obedient servant.

K. Chandy

. District Magistrate,
Bangalore District.

L.S.R.
1.

269

1905-16

From The district magistrate
111 / 26/11/15 Bangalore district

To The Secretary to Govt
General department
Bangalore

Dated

Despatched 25-11-15

Received

General No. S 353 /
No.

Enclosure No. 2 files

Submits the records connected with the petition for the grant of a license to conduct the procession of Kalika Kamateswara by the Panchalas of Thyagarajanagar, Vol. 2K.

G. R. S. 26]

SUBJECT.....

.....

.....

Diary No. of letter replied to.

General and Revenue Secretariat

( )

, *the* 191 .

Date of issue 8th February, 1916

Signed by Mr. R. S Ramachandra Rao.

Police Section

File No. 78-15

Serial No. 4

No. 3109

To

Huchappa, Dharmakarta of

Kalikakamalesvara Temple,

Tyagarajapuram

Thro' V. Venkatachari Esqr. B.A. B.L.,

Advocate, Bangalore

The undersigned is directed to inform Huchappa, Dharmakarta, Kalikakamalesvara Temple, Tyagarajapuram, that the 1st Member of Council will hear the case relating to the procession in

over.

dispute between the Panchalas
and the Sivachars of Tyagaporam
be at 12 noon on the 29th
February 1916 at the
Public Office Office Buildings,
Cuddon Park, Bangalore.

By Order
Mdn 4/2/16
for Secretary to Govt.
Gl. Dept.

BG
6-2-16.

List of enclosures.

Copied by

Examined by

GPB—20,000—14-2-14

4/2

X

2246

G. R. S. 26]

SUBJECT.....

.....

.....

Diary No. of letter replied to

Section ~~28~~

File No. 78-15

Serial No. 5

General and Revenue Secretariat

( )

, *the* 191 .

No. 2

Date of issue 8th February 1916

To

Kolé Ramiah of Jyanayakulam

Signed by W. H. S. Ramalingam & Co.

The undersigned is directed to inform Kolé Ramiah of Jyanayakulam that the Members of Council will hear the case relating to the possession disputed between the Pandarams and Sivachariars of Jyanayakulam at 12 noon on the 29th Feb 1916 at the Public Office Buildings, Cotton Park Bazaar Lane.

By Order

4/2

For Secretary to Govt

Govt Agent

8.2.16

G. R. S. 26]

File No. 7815

Serial No. 6

Diary No. of letter replied to .....

No. 9 1920

Encl: 2 Files.

General and Revenue Secretariat

( )

, *the* 191 .

To

The D.C. Kegalle. Bangalore D.C.

Sir,

Date of issue 28th November 1916.

Signed by Asst. G. Sullivan Esq.

In returning herewith the records received with your letter No. 3353 dated the 23rd November 1915 re the grant of a license to the Panchalas of Iyyanayake to conduct the procession of Kalikia & Kamatchiamma in all the streets of the town I am directed to state that the case may be reopened, if necessary, having regard to the fact that the

over.

SUBJECT.

24)
Chief Court have passed a declaratory
order in the matter regarding
the petitioner's rights in the
matter.

Ld
14/11.

Record c.
Es Vols
To Stamp & Sent.
Ex Asst.

B.H.
13-11-16.

List of enclosures

Copied by

Examined by

GPE—20,00—10-10-14

2

1474

No. 1921 Petn
Thro' V. Venkatachalam Esqr. B.A., B.L. Vakil Bangalore. Sl. no

Endorsement granted to Hutchappa, Panchala Caste, Tyamagondlu, in reply to his petition registered no. T865 of 20.9.15 re the grant of a license to conduct the processions of Kalika & Kamalambana in the streets of the town.

(25)

The petitioner is informed that Govt. do not entertain any appeal against the order passed in the matter. He should apply to the Dt. Magistrate in the matter.

The enclosures received with his petition are returned herewith.

By Order
Sd/- [illegible]
for Secy. to Govt.

Sd/- 28th Nov. 1916.
Signed by Mr. C. Srinivasa Iyengar.

B.L.
13.11.16.

Ac/14